

Filed

APR 26 2008

IFP  
NP

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

RICHARD W. WIEKING

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

## United States District Court

District NORTHERN DISTRICT OF CALIFORNIA

Name

CHAD EDWARD KASTLE

Prisoner No.

P86598

Case No.

Place of Confinement

SALINAS VALLEY STATE PRISON  
31625 HWY 101, POB 1050  
SOLEDAD, CALIF. 93960-1050

Name of Petitioner (include name under which convicted)

Name of Respondent (authorized person having custody of petitioner)

CHAD EDWARD KASTLE

V.

MICHAEL S. EVANS (WARDEN)

The Attorney General of the State of:

CALIFORNIA

## PETITION

1. Name and location of court which entered the judgment of conviction under attack MONTEREY CO. SUPERIOR COURT, MONTEREY, CALIFORNIA
2. Date of judgment of conviction December 3, 2007 (Denied Habeas Petition)
3. Length of sentence Loss of credit of 90 days per 15 CCR §3323(f)(1)
4. Nature of offense involved (all counts) One Count of refusing to submit to urinalysis by correctional staff 15 CCR §3315(a)(3)(R)

5. What was your plea? (Check one)

- (a) Not guilty ☒
- (b) Guilty ☐
- (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

- (a) Jury ☐ N/A
- (b) Judge only ☐

SHO (Senior Hearing Officer)

7. Did you testify at the trial?

Yes ☐ No ☒ N/A

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☒

ORIGINAL

NC

6

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9. If you did appeal, answer the following:

(a) Name of court N/A

(b) Result \_\_\_\_\_

(c) Date of result and citation, if known \_\_\_\_\_

(d) Grounds raised \_\_\_\_\_

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court \_\_\_\_\_

(2) Result \_\_\_\_\_

(3) Date of result and citation, if known \_\_\_\_\_

(4) Grounds raised \_\_\_\_\_

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court \_\_\_\_\_

(2) Result \_\_\_\_\_

(3) Date of result and citation, if known \_\_\_\_\_

(4) Grounds raised \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court Superior Court of California, Co. of Monterey(2) Nature of proceeding Habeas Corpus(3) Grounds raised Due Process, Evidence Gained pursuant to  
illegal search and seizure, further due process. See

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attached State Petition.

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒(5) Result Denied on December 3, 2007, Case No. HC5929(6) Date of result 12-3-07 NOTICE FOR RECONSIDERATION FILED

(b) As to any second petition, application or motion give the same information:

(1) Name of court California Court of Appeals, 6th App. Dist.(2) Name of proceeding Habeas Corpus(3) Grounds raised Same as Superior Court Grounds

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒(5) Result Denied, Case No. H032422(6) Date of result January 29, 2008

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐(2) Second petition, etc. Yes ☒ No ☐(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:Appealed from action See Ex B

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

**CAUTION:** In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: (c) CONVICTION OBTAINED BY USE OF EVIDENCE GAINED PURSUANT TO AN UNCONSTITUTIONAL SEARCH AND SEIZURE.

Supporting FACTS (state *briefly* without citing cases or law): On July 25, 2007 my psychologist provided confidential information to non-privileged custody staff for the sole purpose of disciplining me. See Ex. A & B

B. Ground two: N/A

Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_

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C. Ground three: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_

D. Ground four: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: This Ground was presented to the California Supreme Court and denied on March 26, 2008, Case No. S160873

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?  
Yes ☒ No ☐

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Pro Se

(b) At arraignment and plea N/A

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(c) At trial N/A(d) At sentencing N/A(e) On appeal N/A(f) In any post-conviction proceeding Pro Se

(g) On appeal from any adverse ruling in a post-conviction proceeding \_\_\_\_\_

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☒ No ☐(a) If so, give name and location of court which imposed sentence to be served in the future: Ventura CountySuperior Court, Ventura California 93009(b) Give date and length of the above sentence: 14 years 4 months

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☒ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Pro Se

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

4-15-2008

Date



Signature of Petitioner

Court of Appeal, Sixth Appellate District - No. H032422  
S160873

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re CHAD EDWARD KASTLE on Habeas Corpus

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The application for stay and petition for review are denied.

SUPREME COURT  
FILED

MAR 26 2008

Frederick K. Ohlrich Clerk

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Deputy

  
\_\_\_\_\_  
Chief Justice

**COPY**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

Court of Appeal - Sixth App. Dist.  
**FILED**

JAN 29 2008

MICHAEL J. YERLY, Clerk

By                       
DEPUTY

In re CHAD EDWARD KASTLE,  
  
on Habeas Corpus.

H032422  
(Monterey County  
Super. Ct. No. HC5929)

BY THE COURT:

The petition for writ of habeas corpus is denied.

(Bamattre-Manoukian, Acting P.J., Mihara, J., and McAdams, J.,  
participated in this decision.)

Dated     JAN 29 2008         BAMATTRE-MANOUKIAN, J.     Acting P.J.



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MONTEREY

**FILED**

BEE 03 2007

CONNIE MAZZEI  
CLERK OF THE SUPERIOR COURT  
NOEMI P. BECERRA DEPUTY

In re ) Case No.: HC 5929  
)  
Chad Edward Kastle ) ORDER  
)  
On Habeas Corpus. )

On October 5, 2007, Petitioner filed a petition for writ of habeas corpus.

On October 17, 2007 and November 6, 2007, Petitioner filed motions to amend the petition. On November 8, 2007, the court granted these motions.

Petitioner is currently incarcerated at Salinas Valley State Prison.

Petitioner describes the background of the petition as follows.

On August 5, 2007, Petitioner was found guilty of refusal to test for controlled substances and was assessed 90 days forfeiture of credits. (RVR B07-07-0036.)

On August 2, 2007, Petitioner submitted an appeal. On August 19, 2007, Petitioner sent an Inmate Request for Interview. Petitioner has not submitted a copy of this request. On September 5, 2007, Petitioner submitted an appeal. On September 6, 2007, the Appeals Coordinator screened out his appeal. On September 17, 2007, Petitioner submitted an appeal. On September 18, 2007, Petitioner's appeal was screened out.

In the instant petition, Petitioner claims that he was improperly found guilty of refusal to test for controlled substances on the ground that his psychiatrist improperly disclosed confidential information to the prison officials. Petitioner appears to claim that his psychiatrist failed to obtain his written consent before changing his medication.

Petitioner's claims fail. Petitioner failed to exhaust his administrative remedies. *In re Muszalski* (1975) 52 Cal.App.3d 500, 508.

1 To the extent that Petitioner argues that his appeal was improperly screened out, his  
2 argument fails. Petitioner fails to meet his burden of explaining how his appeal was improperly  
3 screened out. See *People v. Duvall* (1995) 9 Cal.4<sup>th</sup> 464, 474. After Petitioner's appeal was  
4 screened out on September 18, 2007, he failed to follow the appeals coordinator's instructions.  
5 On September 18, 2007, Petitioner's appeal was screened out because 1) his appeal contained  
6 numerous and separate issues and 2) Petitioner failed to attach a complete final copy of the RVR.  
7 The screen out states in part, "If you allege the above reason is inaccurate, then attach an  
8 explanation on a separate piece of paper, or use the back of this screen out—do not write any  
9 more on the appeal itself. Please return this form to the Appeals Coordinator with the necessary  
10 information attached." Petitioner fails to explain why he did not submit his explanation to the  
11 appeals coordinator after Petitioner's appeal was screened out on September 18, 2007. *Duvall*,  
12 *supra*, 9 Cal.4<sup>th</sup> 464, 474.

13 Accordingly, the petition is denied.

14 IT IS SO ORDERED.

15 Dated: 12-03-07



17 \_\_\_\_\_  
18 Hon. Stephen A. Sillman  
19 Judge of the Superior Court  
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## E X H I B I T

A

## DESCRIPTION OF EXHIBIT:

Disciplinary Report (RVR) Containing  
Disclosure.

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7-30-51

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STATE OF CALIFORNIA




DEPARTMENT OF CORRECTION

CDC NUMBER	INMATE'S NAME	RELEASE/BOARD DATE	INST.	HOUSING NO.	LOG NO.
P-86598	KASTLE	EPD / 7-11-2010	SVSP	B5-204U	B07-07-0
VIOLATED RULE NO(S).		SPECIFIC ACTS	LOCATION	DATE	TIME
CCR 53290(d)		REFUSAL TO TEST FOR CONTROLLED SUBSTANCES	Fac. 'B' HEALTH ANNEX	07/25/07	1330 HRS
CIRCUMSTANCES					

Inmate KASILE is a participant in the Mental Health Services Delivery System at the CCMS level of care.

REPORTING EMPLOYEE (Typed Name and Signature) S. Martinez		DATE 7/30/07	ASSIGNMENT B-Work Crew Ofcr. S/S	RDO'S
REVIEWING SUPERVISOR'S SIGNATURE S. R. Hollander		DATE 7-30-2007	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING N/A	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: D	DATE 7/30/07	CLASSIFIED BY (Typed Name and Signature) S. R. Hollander	HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/>

**COPIES GIVEN INMATE BEFORE HEARING**

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE)	DATE	TIME	TITLE OF SUPPLEMENT		
B07-07-0036		8/1/07	2000	wls		
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)	DATE	TIME	BY: (STAFF'S SIGNATURE)	DATE	TIME
N/A						

## HEARING

**PLEA: NOT GUILTY**

**FINDINGS:** Inmate KASTLE was found Guilty of OOR §3290(d), specifically, "REFUSAL TO TEST FOR CONTROLLED SUBSTANCES", Division "D" Offense. This finding is based on the preponderance of evidence presented at the hearing which do substantiate the charge.

**DISPOSITION:** [REDACTED] was assigned to Privilege Group "C", which shall commence on 08/05/07 and conclude 11/02/07. Privilege Group "C" includes: Limited yard per "C" Status, No telephone calls (except on emergency basis), dayroom, No family visits, No special purchase or quarterly packages,  $\frac{1}{4}$  maximum canteen draw.

**ADDITIONAL DISPOSITION:** Imate KASTLE was counseled, warned and reprimanded.

INMATE KASILE IS REQUIRED TO SUBMIT TO MANDATORY RANDOM DRUG TESTING, PER CCR 3315(F)(4), FOR A PERIOD OF TWELVE (12) MONTHS.

(CONTINUED ON RVR PART-C)

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

CTION BY: (TYPED NAME)

**SIGNATURE**

DATE	TIME
8/5/07	0819

A. KESSLER, CORRECTIONAL LIEUTENANT (F-B)

WED BY: (SIGNATURE)

RENKE, CAPTAIN (A)

DATE 8/21/87

CHIEF DISCIPLINARY OFFICER'S SIGNATURE

►E.B. JONES, C.D.O.

DATE 8/29/61

3DC 115 GIVEN INMATE AFTER HEARING

DATE	TIME
1-7	090

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT - PART C

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CDC NUMBER <b>P-86598</b>	INMATE'S NAME <b>KASILE</b>	LOG NUMBER <b>B07-07-0036</b>	INSTITUTION <b>S.V.S.P.</b>	TODAY'S DATE <b>08/05/07</b>
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

Hearing: 08/05/07 Time: 0819 hrs Any Postponement Explained: None

**Inmate's Health:** Inmate KASILE stated his health was good and is willing to proceed with the hearing. The circumstances have been read aloud in the presence of inmate KASILE, who acknowledged his understanding of the charges.

**MHSDS:** Inmate KASILE is a participant in the Department's Mental Health Services Delivery System (MHSDS), at the CCC level of care.

The circumstances of the RVR do not indicate that inmate KASILE exhibited any bizarre behavior that would raise concerns about his mental health. Based on this and pursuant to recent changes approved by the U.S. Court on **COLMAN**, mental health assessment was not initiated. During the hearing, inmate KASILE did not demonstrate any strange, bizarre or irrational behavior.

Date of Discovery: 07/25/07

Initial RVR copy issued on: 08/01/07

Last document issued on: 08/01/07

Hearing started on: 08/05/07

D.A. postponed date: None

D.A. results issued date: None

**Time Constraints:** Time constraints were met. Inmate KASILE was provided a copy of the CDC Form 115 within 15 days after the discovery of information leading to the charge. The hearing was held within 30 days of the date the inmate was provided a copy of the CDC Form 115.

**Staff Assistant (SA):** A Staff Assistant was not assigned per CCR §3315(d)(2).

Inmate KASILE'S TABE Reading Score is above 4.0.

**Investigative Employee (IE):** An Investigative Employee was not assigned per CCR §3315(d)(1).

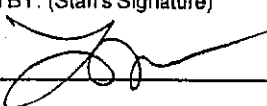
D.A. Referral: N/A

**Evidence Requested or Used:** There was no evidence requested or used.

**External/Outside Evidence:** None **Video Tape Evidence:** None

**Inmate Plea and Statement:** Inmate KASILE entered a plea of **NOT GUILTY** and made the following statement: "No, I have deal with it on appeal."

(CONTINUED ON RVR PART-C)

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <b>R.A. KESSLER, CORRECTIONAL LIEUTENANT</b>	DATE SIGNED <b>8/5/07</b>
	GIVEN BY: (Staff's Signature) 	DATE SIGNED <b>9-1-07</b>

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

## RULES VIOLATION REPORT - PART C

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CDC NUMBER <b>P-86598</b>	INMATE'S NAME <b>KASILE</b>	LOG NUMBER <b>B07-07-0036</b>	INSTITUTION <b>S.V.S.P.</b>	TODAY'S DATE <b>08/05/07</b>
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER

The Senior Hearing Officer asked the following question(s) of the Subject:

Q-1: You were ordered to submit to a urine analysis by Correctional Officer Martinez?

A-1: Yes.

Q-2: Did you comply with this lawful order?

A-2: No.

Witnesses Requested: None. Witness Testimony at Hearing: None

Confidential Information: There was no confidential information used in this hearing.

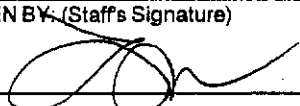
Findings: Inmate KASILE is found **Guilty** of "REFUSAL TO TEST FOR CONTROLLED SUBSTANCES." This finding of **Guilty** is based upon the following preponderance of evidence:

A: The testimony of Correctional Officer S. Martinez, presented in the circumstances portion of the RVR which states part: "....I was instructed by B-Yard Sergeant Jansen to conduct a urinalysis on inmate KASILE (P-86598, B5-204U), the request of B-Yard medical staff Dr. Kirby. I had inmate KASILE report to B-Medical Health Annex. I handed inmate KASILE a pair of latex gloves and a urine specimen container and instructed inmate KASILE to give me a urine sample. Inmate KASILE handed me back the above mentioned items and stated, "I refuse." I advised inmate KASILE that refusal to submit to a urinalysis would result in a CDC-115 for refusing. Inmate KASILE stated, "That's alright, I'll take 115."

B: The testimony of Dr. Kirby M.D., presented in the RVR Supplemental Report, which states in part: "On 07/25/07, approximately 1130 hours, while assigned as Psychiatrist, I saw inmate KASILE (P-86598) for a priority dual medication management appointment. During the appointment, I noted that he was agitated, anxious, slightly tremulous, argumentative, defensive, slightly paranoid, demanding and not appropriately processing information. His eyes were glassy and his pupils were extremely dilated. I did not believe these symptoms were best accounted for by his current medication, though I reduced it over the next several weeks, as it appeared contraindicated. Following my appointment with him, I discussed his presentation with his regular clinician, Dr. Schneider, who concurred that his presentation was outside his normal baseline, and we both had agreed that a urine toxicity screen was appropriate. I suspected that these symptoms were better accounted for by substance abuse, consistent with amphetamine abuse, and ordered a urine toxicity screen. I was informed that inmate KASILE refused to provide a urine sample and this matter has been turned over to custody for appropriate action."

Conclusion: The Reporting Employee notes that he received instructions from Sergeant Jansen, per Dr. Kirby, to conduct urine analysis on inmate KASILE, who did not cooperate and stated, "I refuse." The Supplemental Report authored by Dr. Kirby M.D. notes that she met with inmate KASILE on 07/25/07 and suspected (believed) that the symptoms noted in the RVR Supplemental were not consistent with his prescribed medication. Dr. Kirby discussed the aforementioned with inmate KASILE's regular clinician, Dr. Schneider, who concurred that inmate KASILE's presentation was outside his normal baseline and that a toxicity screen was appropriate. Dr. Kirby states she suspected that the symptoms noted in the Supplemental Report were better accounted for by substance abuse, consistent with amphetamine abuse.

(CONTINUED ON RVR PART-C)

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <b>R.A. KESSLER, CORRECTIONAL LIEUTENANT</b>		DATE SIGNED <b>8/5/07</b>
	GIVEN BY: (Staff's Signature) 		DATE SIGNED <b>9-1-07</b>
			TIME SIGNED <b>0900</b>

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

## RULES VIOLATION REPORT - PART C

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CDC NUMBER <b>P-86598</b>	INMATE'S NAME <b>KASILE</b>	LOG NUMBER <b>B07-07-0036</b>	INSTITUTION <b>S.V.S.P.</b>	TODAY'S DATE <b>08/05/07</b>
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

Inmate KASILE pled not guilty to said charge, however he did not use the allotted time set aside for him to present a basis for his innocence. The Senior Hearing Officer admonished inmate KASILE for not complying to direct orders of staff. Inmate KASILE was advised that further violations of this nature will result in progressive disciplinary action.

**This finding is based on the preponderance of evidence at the hearing, which does substantiate the charge.**

**Enemy Concerns:** There are no enemy concerns related to this disciplinary report.

**Appeal Rights:** Inmate KASILE was advised of his rights to appeal per CCR §3084.1(a). Inmate KASILE was advised that he will receive a completed copy of the RVR upon final audit by the Chief Disciplinary Officer. Inmate KASILE was further advised of restoration of credit loss for a Division 'D' Offense per CCR 3327.

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <b>R.A. KESSLER, CORRECTIONAL LIEUTENANT</b>	DATE SIGNED <b>8/5/07</b>
	GIVEN BY: (Staff's Signature) 	DATE SIGNED <b>9-1-07</b>



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

## RULES VIOLATION REPORT - PART C

PAGE 1 OF 1

CDC NUMBER	INMATE'S NAME	LOG NUMBER	INSTITUTION	TODAY'S DATE
P-86598	KASTLE	B07-07-0036	SVSP	07/25/07
<input checked="" type="checkbox"/> SUPPLEMENTAL	<input type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

On 07/25/07, at approximately 1130 hours, while I was assigned as Psychiatrist, I saw Inmate KASTLE, P-86598, for a priority dictated medication management appointment. During the appointment, I noted that he was agitated, anxious, slightly tremulous, argumentative, defensive, slightly paranoid, demanding, and not appropriately processing information. His eyes were glassy and his pupils were extremely dilated. I did not believe these symptoms were best accounted for by his current medication, though I reduced it over the next several weeks, as it appeared contraindicated. Following my appointment with him, I discussed his presentation with his regular clinician, Dr. Schneider, who concurred that his presentation was outside his normal baseline, and we both had agreed that a urine toxicity screen was appropriate. I suspected that these symptoms were better accounted for by substance abuse, consistent with amphetamine abuse, and ordered a stat urine toxicity screen. I was informed that Inmate KASTLE refused to provide a urine sample and this matter has been turned over to custody for appropriate action.

Dr. Kirby, *Dr. Kirby* MD

SIGNATURE OF WRITER		DATE SIGNED	
<i>[Signature]</i>		7/31/07	
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature)	DATE SIGNED	TIME SIGNED
	<i>[Signature]</i>	8/1/07	2600



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**SERIOUS RULES VIOLATION - PORT**

CDC NUMBER P-33591	INMATE'S NAME PORTER	VIOLATED RULE NO(S) CDC 3350(1)	DATE 07/25/07	INSTITUTION SVCP	LOG NO. 007-37-0035
-----------------------	-------------------------	------------------------------------	------------------	---------------------	------------------------

REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☐ YES ☒ NO**POSTPONEMENT OF DISCIPLINARY HEARING**

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE N/A	DATE

**STAFF ASSISTANT**

STAFF ASSISTANT	INMATE'S SIGNATURE	DATE
<input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON DNMC 3315 d.2	

**INVESTIGATIVE EMPLOYEE**

INVESTIGATIVE EMPLOYEE	INMATE'S SIGNATURE	DATE
<input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON DNMC 3315 d(1)	

EVIDENCE / INFORMATION REQUESTED BY INMATE:

**WITNESSES**

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

☐ REPORTING EMPLOYEE ☐ STAFF ASSISTANT ☐ INVESTIGATIVE EMPLOYEE ☐ OTHER ☒ NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)

GRANTED	NOT GRANTED
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)

GRANTED	NOT GRANTED
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, document the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

INVESTIGATOR'S SIGNATURE

DATE

☒ COPY OF CDC 115-A GIVEN INMATE

BY: (STAFF'S SIGNATURE)

TIME

DATE

## EXHIBIT

B

## DESCRIPTION OF EXHIBIT:

Administration Exhaustion

State of California

## INMATE / PAROLEE APPEAL SCREENING FORM

Department of Corrections and Rehabilitation  
CDCR-695INMATE: KASH/C CDC #: P-86598 CDC HOUSING: BS-102

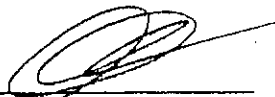
THIS IS NOT AN APPEAL RESPONSE - THIS APPEAL IS EITHER REJECTED FOR ONE OR MORE REASONS NOTED BELOW OR RETURNED TO YOU TO ATTACH SUPPORTING DOCUMENTS.

YOUR APPEAL IS BEING RETURNED TO YOU FOR THE FOLLOWING REASON(S):

- |   |  |
|---|--|
| <input type="checkbox"/> Duplicate Appeal; Same Issue                     | <input type="checkbox"/> Limit of One Continuation Page May Be Attached  |
| <input type="checkbox"/> Inappropriate Statements                         | <input type="checkbox"/> Action / Decision Not Taken By CDCR   |
| <input type="checkbox"/> Time Constraints Not Met                         | <input type="checkbox"/> DRB/BPH Decisions Are Not Appealable  |
| <input type="checkbox"/> Cannot Submit On Behalf Of another Inmate        | <input type="checkbox"/> No Significant Adverse Effect Demonstrated  |
| <input type="checkbox"/> Appealing Action Not Yet/Already Taken           | <input type="checkbox"/> Pointless Verbiage/Appeal Is vague  |
| <input type="checkbox"/> May Submit One (1) Non-Emergency Appeal Per Week | <input type="checkbox"/> Not A Request Form; Use CDCR-7362 - to access Medical Services, submit your request on a CDCR-Form 7362. If necessary, sign up for sick call. |
| <input type="checkbox"/> Incomplete 602                                   | <input type="checkbox"/> Request for Interview; Not an Appeal  |
| <input type="checkbox"/> Attempting to Change Original Appeal Issue       | <input type="checkbox"/> must attempt to resolve grievance informally through the informal appeals process   |
| <input type="checkbox"/> Not Authorized to Bypass Any Level               |  |
| <input checked="" type="checkbox"/> Numerous and separate issues          |  |

PLEASE FOLLOW INSTRUCTIONS AND RETURN YOUR CDC 602 WITHIN 15 WORKING DAYS

Comments: You may write on back of this form to clarify or respond to the above.

you have several issues in appeal.#1 is to have an appeal, I never received, get a log #. I can only process appeals after I receive them. You have attached a copy of an appeal, on white paper, w/ no original signature that is now outside time constraints.#2 is the RVR. to appeal an RVR, attach a complete final copy: note due process/procedural errors on A 602.
  
 Eloy Medina, CC-II  
 Appeals Coordinator
Date: 9/18/07

This screening action may not be appealed. If you allege the above reason is inaccurate, then attach an explanation on a separate piece of paper, or use the back of this screen out - do not write any more on the appeal itself. Please return this form to the Appeals Coordinator with the necessary information attached. (4/30/07)

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. \_\_\_\_\_

1. \_\_\_\_\_

10

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

*PROCESSING of appeals*

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Kastle, CHAD EDWARD	P86598	2nd Watch Building Porter	B5-102

A. Describe Problem: ☒ After an incident on July 25, 2007, I filed a 602 appeal form dated for August 02, 2007 (Exhibit A) through the institutional mail. After not receiving an Inmate Appeal Assignment Notice, as is usually sent to me describing the appeals designation and due date, I sent an Inmate request for interview (GA-22) to the Appeals Coordinator on August 19, 2007. After two more weeks of not hearing back from the Appeals Coordinator, on July 09, 2007 I filed A 602 appeal requesting the position of my August 02, 2007 appeal as well as requesting a LOG # for that 602 appeal and that an Assignment Notice

If you need more space, attach one additional sheet.

(CONTINUED ON ATTACHED SHEET)

B. Action Requested: To be granted a time extension and have my ~~original~~ original Aug 2 2007 filed at the formal level and given a LOG #. Thank you.

REC'D SEP 18 2007

Inmate/Parolee Signature: \_\_\_\_\_

DELIVERED SEP 21 2007

Date Submitted: 9/17/07

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

Staff Signature: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: \_\_\_\_\_

CONTINUED 602 APPEAL FOR SEPTEMBER 17, 2007

Describe Problem: be sent to me for that August 2nd appeal. On September 13, 2007 I received my July 9th appeal back and a CDCR-695, Screening Form attached to the front of it. On the bottom of the screening form is stated that this CDCR-695 form may not be appealed. From the face of the Screened-Out appeal and the face of the CDCR-695 form attached, it appears that the appeals coordinator either does not understand the appeal, or did not read it at all. Regardless, the Appeals Coordinator, Eloy Medina, attached a printout of my updated appeals where there is no sign of my ~~Aug~~ August 2, 2007 appeal ever reaching or being filed. (Exhibit B, September 5th, 2007 screened out appeal) Being that the incident on which date of the August 2nd, 2007 appeal was filed (July 25, 2007) I am now barred by 15 CCR §3084.6(c); from filing an appeal against medical staff Dr. Keren Kerby because the incidence occurred on July 25, 2007 and my August 2nd 2007 appeal ~~XXXXXXXXXX~~ never reached the Appeals Coordinator. As stated in my original appeal of August 2, 2007, I am only filing this appeal to exhaust my lesser remedies so as this matter is not likely to be resolved at the Administrative Level, so I might bring this matter to the court.

ATTACHED: EX A Original August 2, 2007 602 Appeal

EX B Screened out 602 appeal for September 9, 2007

  
CHAD E. KASTLE, P86598

DATED: September 17, 2007

State of California

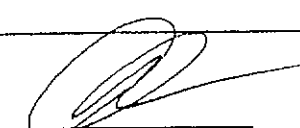
## INMATE / PAROLEE APPEAL SCREENING FORM

Department of Corrections and Rehabilitation  
CDCR-695INMATE: Kastle CDC #: P-86598 CDC HOUSING: BS-102THIS IS NOT AN APPEAL RESPONSE - THIS APPEAL IS EITHER REJECTED FOR ONE OR MORE REASONS NOTED BELOW OR  
RETURNED TO YOU TO ATTACH SUPPORTING DOCUMENTS.YOUR APPEAL IS BEING RETURNED TO YOU FOR THE FOLLOWING REASON(S):

- |   |  |
|---|--|
| <input type="checkbox"/> Duplicate Appeal; Same Issue                     | <input type="checkbox"/> Limit of One Continuation Page May Be Attached  |
| <input type="checkbox"/> Inappropriate Statements                         | <input type="checkbox"/> Action / Decision Not Taken By CDCR   |
| <input type="checkbox"/> Time Constraints Not Met                         | <input type="checkbox"/> DRB/BPH Decisions Are Not Appealable  |
| <input type="checkbox"/> Cannot Submit On Behalf Of another Inmate        | <input type="checkbox"/> No Significant Adverse Effect Demonstrated  |
| <input type="checkbox"/> Appealing Action Not Yet/Already Taken           | <input type="checkbox"/> Pointless Verbiage/Appeal is vague  |
| <input type="checkbox"/> May Submit One (1) Non-Emergency Appeal Per Week | <input type="checkbox"/> Not A Request Form; Use CDCR-7362 - to access Medical<br>Services, submit your request on a CDCR-Form 7362.<br>If necessary, sign up for sick call. |
| <input type="checkbox"/> Incomplete 602                                   | <input checked="" type="checkbox"/> Request for Interview; Not an Appeal   |
| <input type="checkbox"/> Attempting to Change Original Appeal Issue       | <input type="checkbox"/> must attempt to resolve grievance informally<br>through the informal appeals process  |
| <input type="checkbox"/> Not Authorized to Bypass Any Level               |  |
| <input type="checkbox"/> Numerous and separate issues                     |  |

PLEASE FOLLOW INSTRUCTIONS AND RETURN YOUR CDC 602 WITHIN 15 WORKING DAYS

Comments: You may write on back of this form to clarify or respond to the above.

Send Request for Interview to  
Medical.I have attached appeal listing of  
Formal appeals received by Appeals Office  
Elroy Medina, CC-II  
Appeals CoordinatorDELIVERED SEP 13 2007  
Date: 9/6/07

This screening action may not be appealed. If you allege the above reason is inaccurate, then attach an explanation on a separate piece of paper, or use the back of this screen out - do not write any more on the appeal itself. Please

BS

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE  
APPEAL FORM  
CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. \_\_\_\_\_

1. \_\_\_\_\_

10

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

process of Appeals

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
KASTLE, Chad Edward	P86598	PTR.B B52W	B5-102

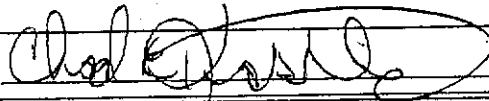
A. Describe Problem: On August 02, 2007, I filed a CDC 602 appeal agints medical staff. On August 19th, 2007, after not hearing from the appeals coordinator regarding my appeal, I sent a CDC GA-22 Inmate request for Interview to the appeals coordinator requesting information regarding the August 2nd appeal. To date I have heard nothing about any action requested of my appeal, or a response to my 08/19/2007 request for interview. I am sending a re-typed co of the 08/19/2007 request for interview with this appeal.

-attached copy of 8-19-07, GA-22-

If you need more space, attach one additional sheet.

B. Action Requested: Provide me with the current position of my August 2nd appeal, provide me with a LOC # for that appeal, and forward me an, "Inmate Appeal Assignment Notice" for the August 2nd Appeal (CDC 602). Thank you.

Inmate/Parolee Signature: \_\_\_\_\_



REC'D SEP 5 2007 Date Submitted: 09/05/2007

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

DELIVERED SEP 13 2007

Staff Response: \_\_\_\_\_

Staff Signature: \_\_\_\_\_

DELIVERED SEP 21 2007 Date Returned to Inmate: \_\_\_\_\_

## D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) or submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number: \_\_\_\_\_

Board of Control form BC-1E, Inmate Claim

GA-22

INMATE REQUEST FOR INTERVIEW

08/19/2007

Appeals Coordinator

Kastle

P86598

B5

204

porter, B52W RDO: S/M

Coastline Community College Fall '07

I have not received an, "Inmate Appeal Assignment Notice" on two CDC-602 appeals I filed. One was on August 02, 2007 and the other was on August 13, 2007. Please inform me as to the proceedings of these Appeals. Thank you.



Chad Edward Kastle  
CDCR # P-86598  
Salinas Valley State Prison  
31625 Highway 101, POB 1050  
Soledad, CA 93960-1050

In Pro Per,

IN THE SUPREME COURT OF CALIFORNIA  
FOR THE SAN FRANCISCO DIVISION

In re	)	S160873
	)	
CHAD EDWARD KASTLE	)	REQUEST TO STAY REVIEW PROCEEDINGS
	)	BY THE COURT
On Habeas Corpus.	)	<u>Cal. Code of Civ. Proc. §923</u>
	)	

TO THE HONORABLE JUDGE OF THE SUPREME COURT OF CALIFORNIA:

Petitioner KASTLE is currently awaiting Review by this court filed on February 19, 2008.

Petitioner has previously been denied grant of his Habeas Petition by the Sixth Appellate District court, Case No. H032422, on January 29, 2008.

Petitioner has previously been denied grant of his Habeas Petition by the Superior Court of California, Monterey County, Case No. HC5929, December 03, 2007.

SUMMARY IN SUPPORT OF REQUEST

In the instant petition at Contention III, the petitioner is asking the court to proceed with a grant of his habeas petition, without first exhausting his administrative remedies because of frivolous means by the Respondent.

On February 07, 2008 the Respondent decided to except the Administrative appeal over six months last, thus contrary to the Respondent's own regulation at 15 CCR §3084.7(c).

Being that the sole reason for the Trial court's original  
KASTLE ON REQUEST FOR STAY

1 denial of petitioner's habeas petition was for the failure to  
2 fully exhaustion of Administrative Remedies; as well as it was  
3 no fault of petitioner for the respondent's refusal to complete  
4 the Administrative process (see attached Appeal's and respondent  
5 response of February 26, 2008), petitioner now request's a stay  
6 of this instant petition, whereas the respondent either continues  
7 to refuse to complete the administrative exhaustion process, or,  
8 the Administrative Process is Completed by the Respondent, thus  
9 so allowing petitioner to re-submit the habeas petition back to  
10 the Superior Court for proper adjudication of his contections less  
11 contention Number Three.

12 DATE: 3-6-08

Respectfully Submitted,

13 

14 Chad E. Kastle, P86598  
15 Petitioner, In Pro Per.  
16  
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20  
21  
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28 KASTLE ON REQUEST FOR STAY

FILED FEB 19 2008  
By, FREDRICK K OHLRICH  
Clerk of the Supreme Court  
//seal//

```
//seal//
```

In re

Case No S160873

6th App. # H032422, (12-24-07)

Monterey Co. # HC5929, (10-05-07)

PETITION FOR REVIEW

On Habeas Corpus.


Cal. Rules of Ct., Rule §28(a)

- 1) This petition for writ of habeas corpus was denied by the Sixth Appellate District Court of Appeals on 01-29-2008 without comment, #H032422.
- 2) This petition for writ of habeas corpus was denied by the Monterey County Superior Court of Calif. on 12-03-2007, see Exhibit "G" of the attached petition for reason for denial.

I ask that this court review this petition for writ of habeas corpus pursuant to California Rules of Court, Rule §28(a).

DATED: 02-13-2008

Respectfully Submitted,

  
Chad E. Kastle, P86598  
Petitioner, In Pro Per.

MARY JAMESON  
AUTOMATIC APPEALS SUPERVISOR  
  
JORGE NAVARRETE  
SUPERVISING DEPUTY CLERK  
  
SAN FRANCISCO  
  
NATALIE ROBINSON  
SUPERVISING DEPUTY CLERK  
  
LOS ANGELES



*Supreme Court of California*

FREDERICK K. OHLRICH  
COURT ADMINISTRATOR AND  
CLERK OF THE SUPREME COURT

☒ SAN FRANCISCO 94102  
EARL WARREN BUILDING  
350 McALLISTER STREET  
(415) 865-7000  
  
☐ LOS ANGELES 90013  
RONALD REAGAN BUILDING  
300 SOUTH SPRING STREET  
(213) 830-7570

February 19, 2008

Mr. Chad Edward Kastle  
P-86598  
P. O. Box 1050  
Soledad, CA 93960-1050

**Re: S160873 – In re Chad Edward Kastle on Habeas Corpus**

Dear Mr. Kastle:

The court has granted permission to file the untimely petition for review and the petition was filed February 19, 2008.

An answer to the petition may be served and filed on or before March 10, 2008, 20 days after the petition is filed. The answer may present additional issues desired for review if the petition for review is granted.

A reply to the answer may be filed within 10 days after filing of the answer, limited to the additional issues presented in the answer, if any.

Very truly yours,

FREDERICK K. OHLRICH  
Court Administrator and  
Clerk of the Supreme Court

  
By: C. Thompson, Deputy Clerk

cc:/ Office of the Attorney General

**COPY**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

Court of Appeal - Sixth App. Dist.

**FILED**

JAN 29 2008

MICHAEL J. YEHLY, Clerk

By                      DEPUTY

In re CHAD EDWARD KASTLE,  
  
on Habeas Corpus.

H032422  
(Monterey County  
Super. Ct. No. HC5929)

BY THE COURT:

The petition for writ of habeas corpus is denied.

(Bamattre-Manoukian, Acting P.J., Mihara, J., and McAdams, J.,  
participated in this decision.)

Dated     JAN 29 2008         BAMATTRE-MANOUKIAN, J.     Acting P.J.

STATE OF CALIFORNIA

COUNTY OF MONTEREY

I, Chad Kastle P86598 declare under penalty of perjury that: I am the Petitioner in the above entitled action; I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon information, and belief, and as to those matters, I believe they are true.

Executed this 6<sup>TH</sup> day of March, 20 08, at Salinas Valley State Prison, Soledad, CA 93960-1050.

(Signature)

Chad E Kastle

DECLARANT/PRISONER

### PROOF OF SERVICE BY MAIL

I, Chad Kastle P86598 am a resident of California State Prison, in the County of Monterey, State of California; I am over the age of eighteen (18) years and am/am not a party of the above entitled action. My state prison address is: P.O. Box 1050, Soledad, CA 93960-1050.

On 3-6, 20 08, I served the foregoing: Request to Stay review proceeding by the Court

(Set forth exact title of document(s) served)

On the party(s) herein by placing a true copy(s) thereof, enclosed in sealed envelope(s), with postage thereof fully paid, in the United States Mail, in a deposit box so provided at Salinas Valley State Prison, Soledad, CA 93960-1050.

California Attorney GeneralMr E. Brown Jr.455 Golden Gate Ave # 11000San Francisco CA 94102-7004

(List parties served)

There is delivery service by United States Mail at the place so addressed, and/or there is regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 3-6, 20 08

Chad E Kastle

DECLARANT/PRISONER

5095  
Chad Edward Kastle  
CDCR # P-86598  
Salinas Valley State Prison  
Facility B, Bldg. 5-102  
31625 Highway 101, POB 1050  
Soledad, Calif. 93960-1050

Pro se litigant,

Filed  
12-24-08

C A L I F O R N I A   C O U R T   O F   A P P E A L S  
S I X T H   A P P E L L A T E   D I S T R I C T

In re

CHAD EDWARD KASTLE  
Petitioner,

O n   H a b e a s   C o r p u s

MIKE S. E V A N S: Warden, SVSP  
et al.

Respondent.

Case No.

H032422

PETITION FOR WRIT OF HABEAS CORPUS  
AND ATTACHED MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT THEREOF

Cal Penal Code § 1474

( C O V E R   P A G E )

MC-275

Name Chad Edward Kastle  
 Address 31625 Highway 101, POB 1050  
Soledad, CA 93960-1050

CDC or ID Number P-86598

**CALIFORNIA COURT OF APPEALS**

**SIXTH APPELLATE DISTRICT**

(Court)

**PETITION FOR WRIT OF HABEAS CORPUS**

Chad Edward Kastle

Petitioner

vs.

Mike S. Evans (Warden) et al.,

Respondent

No. H032422

(To be supplied by the Clerk of the Court)

Monterey Co. Superior Ct. No. HC5929

**INSTRUCTIONS—READ CAREFULLY**

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court [as amended effective January 1, 2007]. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

Page 1 of 8



MC-275

## This petition concerns:

- ☐ A conviction
 ☐ Parole  
☐ A sentence
 ☒ Credits  
☐ Jail or prison conditions
 ☒ Prison discipline  
☐ Other (specify): \_\_\_\_\_

1. Your name: Chad Edward Kastle
2. Where are you incarcerated? Salinas Valley State Prison, Soledad, California
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Residential Burglary; Receiving Stolen Property; and Prior Felony Enhancement.

- b. Penal or other code sections: PC 459; PC 496; PC 667
- c. Name and location of sentencing or committing court: Ventura County Superior Court,  
800 S. Victoria Avenue, Ventura, California 93009
- d. Case number: CR45410; CR38742
- e. Date convicted or committed: May 26, 2000
- f. Date sentenced: June 26, 2000
- g. Length of sentence: 14 years 4 months
- h. When do you expect to be released? October 2010

- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

William Rutan, Ventura County Public Defenders Office800 S. Victoria Avenue; Ventura, California 93009

4. What was the LAST plea you entered? (check one)

☐ Not guilty
 ☒ Guilty
 ☐ Nolo Contendere
 ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury
 ☐ Judge without a jury
 ☐ Submitted on transcript
 ☐ Awaiting trial

MC-275

## 6. GROUNDS FOR RELIEF

**Ground 1:** State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (if you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

PETITIONER WAS DENIED RIGHT OF PSYCHOTHERAPIST-PATIENT CONFIDENTIALITY  
WHEN HIS PHYCHOTHERAPIST DISCLOSED PRIVILEGED INFORMATION TO CUSTODY  
STAFF FOR THE PURPOSE OF OBTAINING A URINE SAMPLE WHICH PETITIONER THEN  
REFUSED & INADVENTANTLY RECEIVED CREDIT FORFEITURE OF EARNED GOOD-TIME

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time (*when*) or place (*where*). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

(Please see Memorandum of Points and Authorities in Support of Petition)

(Authorized By Calif. PC §1474)

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

(Please see Memorandum of Points and Authorities in Support of Petition)

(Authorized by Calif. PC §1474)

MC-275

7. Ground 2 or Ground 2 (if applicable):

PETITIONER'S PSYCHOTHERAPIST FAILED TO SECURE WRITTEN INFORMED CONSENT  
BEFORE CHANGING HIS RELYING PSYCHOTROPIC MEDICATION

a. Supporting facts:

(Please see Memorandum of Points and Authorities in Support of Petition)

(Authorized by Calif. PC §1474)

b. Supporting cases, rules, or other authority:

(Please see Memorandum of Points and Authorities in Support of Petition)

(Authorized by Calif. PC §1474)

7. Ground ~~1~~ or Ground 3 (if applicable):

ADMINISTRATIVE COORDINATOR FAILED TO PROCESS PETITIONER'S EXHAUSTIVE  
APPEAL THUS DENYING PETITIONER TO DUE PROCESS UNDER THE LAW

a. Supporting facts:

(Please see Memorandum of Points and Authorities in Support of Petition)

(Authorized by Calif. PC §1474)

b. Supporting cases, rules, or other authority:

(Please see Memorandum of Points and Authorities in Support of Petition)

(Authorized by Calif. PC §1474)

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☒ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

b. Result \_\_\_\_\_ c. Date of decision: \_\_\_\_\_

d. Case number or citation of opinion, if known: \_\_\_\_\_

e. Issues raised: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

f. Were you represented by counsel on appeal? ☐ Yes. ☐ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☐ Yes ☐ No. If yes, give the following information:

a. Result \_\_\_\_\_ b. Date of decision: \_\_\_\_\_

c. Case number or citation of opinion, if known: \_\_\_\_\_

d. Issues raised: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

N/A

11. Administrative Review:

- a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

Administrative appeal (CDCR-602 Form) filed on August 2, 2007. This  
issue is a contention in this action.

- b. Did you seek the highest level of administrative review available? ☒ Yes. ☐ No.  
 Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☒ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15. MC-275

13. a. (1) Name of court: Superior Court of California, County of Monterey  
(2) Nature of proceeding (for example, "habeas corpus petition"): PC §1474 Habeas Corpus MC-275  
(3) Issues raised: (a) (1) Denied right to confidentiality  
(b) (2) Denied right to informed consent, (3) Denied right to exhaust administrative remedies.  
(4) Result (Attach order or explain why unavailable): Court's Denial  
(5) Date of decision: December 3, 2007 (attached at exhibit) Case No. HC5929

- b. (1) Name of court: N/A  
(2) Nature of proceeding: \_\_\_\_\_  
(3) Issues raised: (a) \_\_\_\_\_  
(b) \_\_\_\_\_  
(4) Result (Attach order or explain why unavailable): \_\_\_\_\_  
(5) Date of decision: \_\_\_\_\_

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

No delay

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☒ Yes. ☐ No. If yes, explain:

Kastle v. Evans (2007) Civ No. CV-07-04730-SGL (RC)

United States District Court, Cenrtal District

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

Issues presented to the California Superior Court, Monerey County  
The Honorable Stephen A. Sillman.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: December 12, 2007

Charles E. Dastb  
(SIGNATURE OF PETITIONER)

1 Chad Edward Kastle  
CDCR # P-86598  
2 Salinas Valley State Prison  
Facility B, Bldg. 5-102  
3 31625 Highway 101, POB 1050  
Soledad, CA 93960-1050

4 Pro se litigant,  
5  
6

7 CALIFORNIA COURT OF APPEALS  
8 SIXTH APPELLATE DISTRICT  
9

10 In re

11 CHAD EDWARD KASTLE  
(Petitioner)

12 On Habeas Corpus  
13

14 MIKE S. EVANS, Warden; SVSP  
15 et al.  
(Respondent).  
16

Case No. H032422

PETITION FOR WRIT OF HABEAS CORPUS  
AND ATTACHED MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT THEREOF

Cal Penal Code §1474

17  
18  
19  
20  
21  
22 ( C O V E R P A G E )  
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25  
26  
27

28 //kastle on habeas corpus//  
- -

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Case No. H032422

PETITION FOR WRIT OF HABEAS CORPUS  
AND ATTACHED MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT THEREOF

Cal Penal Code §1474

18 I

19 INTRODUCTION  
20

21 1 Petitioner KASTLE, CDCR # P-86598, was found  
22 guilty of violating Title 15 of the California Code of  
23 Regulations, Section 3290, Subd (d), during a Prison  
24 Disciplinary Hearing, Prison Log No. B07-07-0036 for refusing  
25 to submit to urinalysis requested by Custody Officer, S.  
26 Martinez on July 25, 2007. (see Exhibit A)

27 2 Petitioner contends that the information leading  
28 Custody Staff to request this test, was erroneously given by

//kastle on habeas corpus//

1 Petitioner's psychotherapist, Dr. Karen Kirby, Medical License  
2 No. G67502 (Respondent), when she disclosed confidential,  
3 privileged information obtained during a treatment session  
4 between Respondent Kirby MD, Respondent Cahalan and Petitioner  
5 Kastle. (see Exhibit A & C)

6           3       Petitioner refused to submit to this test because  
7 he believed this act to be an illegal breach of earlier  
8 discussions held in a private, closed psychological session  
9 between Responent Kirby, Respondent Cahalan and and Himself,  
10 thus did not warrant such action under the law. (see Exhibit A  
11 and C)

12           4       Respondent Kirby again violated Petitioner's  
13 legal rights when she denied Petitioner any right to refuse her  
14 to change his relying, psychotropic medication, without first  
15 obtaining Petitioner's written Informed-Consent required by law.  
16 Petitioner will show through -prima facie- evidence that  
17 Respondent Violated her own regulations, requiring that she  
18 specifically secure written Informed-Consent, prior to changing  
19 a psychotic persons relying medication. (see, Exhibit C & E)

20           5       Leastly, during the course of Petitioner's  
21 attempt to exhaust his Administrative remedies, so as he might  
22 bring relief sought, through the Court system; The appeals  
23 Coordinator, Mr. Eloy Medina, failed to file Petitioner's  
24 exhaustive appeal, and blatantly disregarded Petitioner's  
25 request for-outcome-of-pending-appeal, thus denying Petitioner  
26 Due Process of Law. (see, Exhibit B)

27 ///

28 ///

//kastle on habeas corpus//

II

PARTIES

6 Petitioner Chad Edward Kastle, CDCR # P-86598 is a prisoner of the State of California currently incarcerated at Salinas Valley State Prison, Monterey County.

7 Respondent Dr. Karen Y. Kirby MD Lic No. G67502, is a psychotherapist with a degree in neurology, currently employed by the State of California, at Salinas Valley State Prison.

8 Respondent E. Cahalan, is a Licensed Psychiatric Technician (LPT) Lic No. 33043, currently employed by the State of California, at Salinas Valley State prison.

9 Respondent M. Schneider, is a Board Certified Psychologist, currently employed by the State of California, at Salinas Valley State Prison.

10 Respondent Mike S. Evans is currently employed as Facility Warden at Salinas Valley State Prison, and as such is the legal custodian of Petitioner.

11 Respondent James E. Tilton, is currently employed as Secretary for the California Department of Corrections and Rehabilitation, and as such is responsible for the lawful operation of all of its institutions, including Salinas Valley State Prison, pursuant to Cal Penal Code §5050.

12 Respondent Edmund G. Brown Jr., is currently employed as California Attorney General, and as such represents the People of the State of California.

///

//kastle on habeas corpus

## III

STATEMENT OF FACTS

13 Concluding Petitioner's disciplinary hearing of August 05, 2007, Correctional Lieutenant R.A. Kessler, after a finding of "guilty" of said violation, then assessed Petitioner ninety (90) days forfeiture of good-time credits, ninety (90) days in disciplinary group "C", limited yard privilege, no phone privileges, no dayroom privileges, loss of visiting privileges, loss of book purchasing privileges, and placed in disciplinary canteen group. (see, Exhibit A)

14 In addition to the above, Petitioner is required to conform, and submit to vigorous chemical testing for a period of one year pursuant to 15 CCR §3315(f)(4). Petitioner is now procedurally barred from applying for a restoration of earned good-time credits pursuant to 15 CCR §3327(a)(4). (see, Exhibit A)

15 During a priority ducated psychiatric medication management appointment, Petitioner met with his psychotherapist for the sole purpose of renewing his relying psychotropic medication, a redundantly, affirmative task (8 years of same medication). During the course of the appointment, Respondent Kirby contended that Petitioner seemed to be acting, "...in a manner that was consistent with amphetamine abuse." (see, Exhibit A & C)

16 Petitioner is currently under the direct care of his treating Psychologist, Dr. M. Schneider, who has been his sole case manager, consistently for over two years, treating

//kastle on habeas corpus//

1 Petitioner for various mental health disorders including,  
2 Bipolar disorder, type mixed, while incarcerated at Salinas  
3 Valley State Prison. (see, Exhibit D)

4 17 Being that Petitioner does suffer from the  
5 discussed illness, the symptoms described in Respondent Kirby's  
6 disciplinary report to Staff Sergeant Jansen (see, Exhibit A,  
7 Exhibit page 5, RVR Reports), that of Petitioner acting in a  
8 manner, "consistent with amphetamine abuse" were that of the  
9 normal, promonant symptom for that of a person experiencing a,  
10 "Bipolar-episode" within the meaning of the current judicially  
11 recognized DSM-IV (Diagnostic & Statistical Manual, 4d) and  
12 could not have been unapparent to Respondent Kirby (a State  
13 rubberstamp) and her Psychiatric Technician on the day of the  
14 July 25, 2007 incident.

15 (see, Exhibit A, and DSM-IV)

16 18 Petitioner's prior treating psychotherapist to  
17 Respondent Kirby, Dr. Eva MD saw Petitioner on five seperate  
18 occations, approximately thirty (30) days consecutively, would  
19 secure Petitioner's written "Informed-consent" at every  
20 medication management session that Dr. Eva conducted on  
21 Petitioner, without fail. Dr. Eva did this repetitive process  
22 any time he treats a psychotropically reliant patient,  
23 regardless of wheather Dr. Eva changed a patients medication or  
24 nearly adjusting the dosage of subsequet medication.

25 (see, Exhibit E, Dr. Eva's Psychiatric notes of Petitioner)

26 19 If Respondent Kirby had even mearley "scanned"  
27 Petitioner's available mental health records, previous to  
28 Petitioner's arrival, she would have understood that Petitioner

//kastle on habeas corpus//

1 had been reliant, and successful (for over eight years) on his  
2 current medication regiment, and has continued to be so  
3 throughout his entire adult life. (see, Exhibit F)

4         20         Shortly after the July 25th incident, on August  
5 2nd, Petitioner filed a timely Administrative Appeal (hereafter  
6 known as CDCR-602-appeal) to the Appeals Coordinator,  
7 Correctional Counselor Eloy Medina, as Petitioner is required  
8 by statute to exhaust any available administrative remedies  
9 prior to bringing any action in State Court.

10 (see, Exhibit B, Exhibit page(s) 5-9)

11         21         On August 07, 2007 Petitioner submitted to the  
12 Medical Records Department, a GA-22 form ("Inmate Request For  
13 Interview") attached to a CDC-193 form ("Trust Account  
14 Withdrawal Order") for the purpose of obtaining a "Complete  
15 Copy" of Petitioner's Mental Health File, describing the July  
16 25th incident. Note that Petitioner knew he could not request  
17 this material through the CDC-602-appeal process because an  
18 inmate may only submit one (1) CDC-602-appeal per seven day  
19 interval according to 15 CCR §3084.4(a); Petitioner had filed  
20 his Exhaustive CDCR-602-appeal only five days ago, and was  
21 barred from using the appeal process at that time. Medical  
22 Records did not comply with his August 7th request, thus  
23 Petitioner, after seven-working-days had passed, submitted a  
24 CDCR-602-appeal directing that Medical Records provide him, in  
25 toto, with a copy of his mental health file. Petitioner  
26 attached copies of the August 7th, GA-22 and CDC-193 forms to  
27 the CDCR-602-appeal as exhibits of sorts, giving the Appeals  
28 Coordinator evidence of a prior attempt to retrieve said

//kastle on habeas corpus//



1 records before initiating the appeals process. This CDCR-602  
2 was returned to Petitioner sometime after August 24, 2007 as  
3 it was never given a date-stamp, only a log No. of MAO-07-2120  
4 at the bottom left corner of this August 13, 2007 CDCR-602.  
5 (see, Exhibit B, Exhibit page 16, 17, and 18)

6       22       On August 19, 2007, after not hearing of the  
7 proceedings of his original CDCR-602 of August 2, 2007, and  
8 his subsequent August 13, 2007 CDCR-602, Petitioner then filed  
9 a GA-22 ("Inmate Request For Interview") to further inquire of  
10 the proceedings of his two appeals, (1) 8/2/07 "Exhaustive"  
11 Appeal, and (2) 8/13/07 "Records" appeal, a copy of this GA-22 form was  
12 included as Exhibit B, Exhibit page 13 in his Habeas Corpus  
13 previously filed by the Monterey County Superior Court, Case  
14 No. HC5929, and is again supplied at Exhibit B, Exhibit page 13  
15 of this petition. Please note that The Honorable Stephan A.  
16 Sillman of the Monterey County Superior Court denied KASTLE's  
17 petition (on December 3, 2007) in part because, "Petitioner has  
18 not submitted a copy of this request" (referring to the GA-22 of  
19 August 19th). Petitioner in fact included this document in the  
20 original petition, therefore the Courts reasoning for the  
21 December 3rd denial of the petition, fails. (see, Exhibit G)

22       23       After Appeals Coordinator again failed to respond  
23 to August 19th GA-22, Petitioner, on September 5th, 17 days  
24 later, submitted a subsequent CDCR-602 Appeal to the Appeals  
25 Coordinator. This is the very first document to receive a  
26 date-stamps (of September 6, 2007) by the Coordinator. Within  
27 this CDCR-602, Petitioner again inquires as to the proceedings  
28 of both his August 2nd CDCR-602 and August 19th GA-22.

//kastle on habeas corpus//

1 The Appeals Coordinator, Mr Eloy Medina, CC II, thus responded  
2 to the August 5th CDCR-602, by attaching a CDCR-695 ("Inmate/  
3 Parolee Appeal Screening Form") to the front of the Appeal,  
4 stating that this issue is "Not an Appeal" and that Petitioner  
5 should send any request for interview forms to medical. As  
6 well, Mr. Eloy Medina attached a listing of "Formal Appeals"  
7 that Petitioner had filed for the past several years. Note  
8 that the Prison does not record any appeals submitted to their  
9 department at the "Informal level" (AKA the first-level),  
10 and if the Coordinator had only read the addressing appeal,  
11 he would have known this to be an Informal-appeal, not required  
12 to be either recorded on the "Inmate/Parolee Appeals Tracking  
13 System form", or normally given a LOG number. Mr. Medina,  
14 therefore did know that Petitioner's August 2nd CDCR-602 would  
15 not have shown up on the Tracking form.  
16 (see, Exhibit B, page 1 et seq.)

17 24 Petitioner was bound by the face of the attached  
18 CDCR-695 from appealing the Appeal Coordinator's perfunctory  
19 response, thus Petitioner filed a **third** subsequent CDCR-602 to  
20 resolve the whereabouts of his appeals and, "informal requests"  
21 in addition to requesting an extension of time to re-file the  
22 August 2nd CDCR-602, as this appeal was now time-barred and  
23 outside any time-constraints in accordance with 15 CCR §3094.7,  
24 subd (c). The prior copies of both the August 2nd CDCR-602,  
25 the August 19th GA-22, as well as the September 5th CDCR-602  
26 with the attached CDCR-695 "Screening form" were thus submitted  
27 as "attachment" to this final CDCR-602 dated September 17th.

28 25 In the final CDCR-602 dated Sept. 17th,  
//kastle on habeas corpus//

1 Petitioner's claims were met with another CDCR-695 "Screening  
2 Form", again barring Petitioner from any further attempts to  
3 exhaust available administrative remedies.

4 (see, Exhibit B, Exhibit page 1 et seq.)

5       26       The lack of due diligence on the part of  
6 Respondent Kirby for mistaking Petitioner's **NORMAL PROMONENT**  
7 **SYMPTOM** for that of a person having been abusing illegal  
8 amphetamines; the negligence on the part of Respondent's Kirby  
9 and her Certified Technician, Ms. E. Cahalan for failing to  
10 review Petitioner's psychiatric file, prior to their scheduled  
11 appointment; by Dr. Kirby violating the law, thus disclosing  
12 privileged, confidential information to persons not lawfully  
13 able to receive or hold such privilege, for the purpose of  
14 confronting Petitioner for an "Unwarranted search/procedure",  
15 thus shows that Respondent Kirby was acting contrary to a  
16 professional physician, holding a personal position only to  
17 endanger her patient.

18       27       The lack of due diligence on the part of the  
19 Administrative Coordinator, Mr. Eloy Medina, CC II, for failing  
20 to properly address and process all incoming appeals pursuant  
21 to a set, procedure, thus denying Petitioner due process to  
22 exhaust his administrative remedies, according to law, further  
23 allocates misconduct on the part of this Department.

24       28       Petitioner has previously sought grant of this  
25 petition in the Superior Court of California, County of Monterey  
26 and was subsequently denied on December 3rd, 2007 Case No.HC5929  
27 by the Honorable Stephan A. Sillman.

28 ///

//kastle on habeas corpus//

1           29       Petitioner has further been able to exhaust his  
2 administrative remedies by way of the California Tort Claims  
3 Act, pursuant to Cal Gov Code §810 et seq. Petitioner's claim  
4 was filed sixty (60) days from the subsequent July 25th incident  
5 and was addressed by the Claims Board on November 13, 2007, as  
6 well is due to be further reviewed by the VCGCB (Board) at a  
7 December 13, 2007 hearing. (see Exhibit H)

8           30       The Board concludes that the relief sought in  
9 Petitioner's Claim, would be best handled by the court system.  
10 (see, Exhibit H, Exhibit page 4)

11           31       The Respondent Mr. Eloy Medina was ommitted from  
12 the PARTIES sections of this petition, and should be  
13 incorporated, supra, as being employed as Administrative  
14 Coordinator, employed by the State of California at Salinas  
15 Valley State Prison.

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//kastle on habeas corpus//

IV

CONTENTIONS

1.

PETITIONER WAS DENIED THE RIGHT OF PSYCHOTHERAPIST-PATIENT  
CONFIDENTIALITY UNDER; CAL EVID CODE §1012 AND §1014  
CAL CIVIL CODE §56.10, §2016 AND §2031; CAL PENAL CODE §1524,  
AND §1543; CAL W & I CODE §5328 AS WELL AS 15 CCR §3361;  
RUDNICK V. SUPERIOR COURT (1974) 11 CAL 3D 924;  
US V. HAYES (2000) 227 F 3D 578;  
AND THE UNITED STATES 8TH AND 14TH AMENDMENTS OF  
THE CONSTITUTION

2.

PETITIONER'S PSYCHOTHERAPIST FAILED TO SECURE WRITTEN INFORMED  
CONSENT PRIOR TO CHANGING PETITIONER'S RELYING PSYCHOTROPIC  
MEDICATION AGAINST PETITIONER'S DEMISE  
THUS VIOLATING CAL W&I CODE §5326 ET SEQ; CAL PENAL CODE §3521;  
PEOPLE V. DELGADO (1989) 262 CAL RPTR 122;  
CHANCE V. ARMSTRONG (1998) 143 F 3D 698;  
CAL CONST, ART I, §§7, 29;  
AND THE UNITED STATES 8TH AMENDMENT OF THE CONSTITUTION

3.

PRISON ADMINISTRATIVE COORDINATOR FAILED TO PROCESS  
PETITIONER'S EXHAUSTIVE APPEAL THUS DENYING PETITIONER  
DUE PROCESS UNDER THE LAW  
THUS VIOLATING THE COURT'S ORDER OF, IN RE MUSZALSHI  
(1975) 51 CAL APP 500;  
PETERSON V. LAMPERT (9TH CIR 2002) 277 F 3D 1073;  
AND THE UNITED STATES 5TH AND 14TH AMENDMENTS OF  
THE CONSTITUTION

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//kastle on habeas corpus//

V

PRAYER FOR RELIEF

Petitioner is without remedy save for Habeas Corpus. Accordingly, Petitioner requests that this Court:

- 1 Issue this Writ of Habeas Corpus
- 2 Issue an ORDER TO SHOW CAUSE
- 3 Issue an ORDER directing the California Department of Corrections and Rehabilitation to EXPUNGE Petitioner's July 25, 2007 RVR-LOG #B07-07-0036, and restore Petitioner's ninety (90) forfeiture of earned good-time credits, thus restoring Petitioner's Release date of July 11th, 2010.
- 4 Grant any and all other relief found necessary or appropriate in this matter.

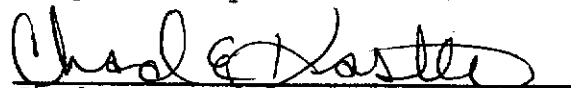
VERIFICATION/DECLARATION

I, CHAD EDWARD KASTLE, CDCR # P-86598 declare:

I am the Petitioner in this action. I have read the foregoing petition and the facts stated herein are true of my own knowledge, except as to matters that are stated therein, on my information and belief; and as to those matters I believe them to be true.

I declare under penalty of perjury of the laws of the state of California that the foregoing is true and correct; this Verification/Declaration was executed at Soledad, California on this 12<sup>th</sup> day of December, 2007.

Respectfully Submitted,



Chad E. Kastle, #P-86598  
Petitioner, In Pro se.

//kastle on habeas corpus//

MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF THE PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1 California Inmates enjoy the right of privilege  
2 allocated them within the "Psychotherapist-Patient" statute at  
3 California Evidence Code, Sections §1012 and §1014.

4  
5 2 California Inmates, as well, enjoy the security  
6 of knowing that they may speak freely when disclosing any  
7 personal, private matters to their therapist, in closed  
8 conversation in accordance with Title 15 of the California Code  
9 of Regulations under Mental Health Services Subchapter IV,  
10 Article 9, Section §3361, subd. (c).

11  
12 3 Inmates enjoy the right to refuse any  
13 psychological medication in this State under Keyhea V. Rushing  
14 (1986) 178 Cal App 3d 526, as well inmates are allotted the  
15 right to give Written Informed-Consent prior to any Medical  
16 Doctor changing a reliant patients medication under California  
17 Penal Code, Section §3521 et seq., as well as cited in the  
18 California Case of People V. Delgado (1989) 262 Cal Rptr 122.

19  
20 4 Petitioner must duly exhaust any and all  
21 administrative remedies available prior to initiating any action  
22 in the Courts. (e.g. Petition for Writ of Habeas Corpus)  
23 (see, In re Muszalski (1975) 52 Cal App 500)

24  
25 5 When Administrative Coordinator Mr. Eloy Medina  
26 failed to process Petitioner's Exhaustive Appeal(s), the  
27 Respondent did violate Petitioner's right to Due Process under  
28 the California Constitution, Article I, Section(s) §7 and §29.

//kastle on habeas corpus//

6           Petitioner had thus been punished illegally for relying on what little right he still had. Responsible parties are continuing to act **Under Color of State Law** (Parratt V. Taylor (1981) 101 S Ct 1908, 1913) while continuing to be employed by the State of California at Salinas Valley State Prison.

## CONTENTION

## 1

PETITIONER WAS DENIED THE RIGHT OF PSYCHOTHERAPIST-PATIENT  
CONFIDENTIALITY UNDER; CAL EVID CODE §1012 AND §1014;  
CAL CIVIL CODE §56.10, §2016 AND §2031; CAL PENAL CODE  
§1524 AND §1543; CAL W & I CODE §5328; AS WELL AS UNDER  
15 CCR §3361; RUDNICK V. SUPERIOR COURT (1974) 11 CAL 3D 924;  
UNITED STATES V. HAYES (2000) 227 F3D 578;  
AND THE UNITED STATES 8TH AND 14TH AMENDMENTS OF THE  
CONSTITUTION

## ARGUMENT

7 California prisoners have the right to not only hold, but to refuse to have disclosed a privilege gained during the course of a Psychotherapist-Patient relationship.

8           The California Evidence Code, at Section 1012  
thus holds that:

"...confidential communication between a patient and their psychotherapist means information, including information obtained by an examination of the patient, transmitted between a patient and their psychotherapist in the course of that relationship and in confidence by a means which, so far as the patient is aware, discloses the information to no third persons other than those who are present to further the interest of the patient in the consultation, or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the psychotherapist is consulted, and in the course of that relationship."

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1           9           It is quite clear from Respondent Kirby's  
2 supplemental report to Sergeant Jansen on July 25, 2007 (see,  
3 supplemental RVR report at Exhibit A, Ex. p. 5) that the  
4 psychotherapist, Respondent Kirby, in this case did disclose,  
5 "information obtained by an examination of the patient.", to  
6 an unauthorized third person (Sergeant Jansen) for which  
7 Petitioner was then disciplined.

8           10          California Regulation regarding mentally ill  
9 inmates under Title 15 C.C.R. §3361(c) gives:

10           "Recognizing that mental health care often involves revealing  
11 deeply personal and private matters, all mental health care  
12 shall be provided in such a manner as to maintain the dignity  
13 of the inmate. Professional relationships shall to conducted  
14 with proper privacy, with due regard for the professional to  
15 take necessary and appropriate action to prevent harm to the  
16 patient or to others. Records of Mental Health diagnosis,  
evaluation and treatment prepared or maintained by the  
department shall remain the property of the department and  
are subject to all applicable laws governing their confiden-  
tiality and disclosure. Treatment will be accord with sound  
principals of practice and will not serve a punitive purpose."

17           11          Indeed Petitioner, in this case, was subjected to  
18 **punitive** measures because of this unwarranted disclosure.

19           12          Under California Evidence Code, Section §1014  
20 and cited in Nielsen V. Superior Court (1997) 55 Cal App 4th  
21 1150, provides that:

22           "...the patient, whether or not a party, has a privilege to  
23 refuse to disclose, and to prevent another from disclosing,  
24 a confidential communication between patient and psychothera-  
25 pist. Confidential communications are protected to encourage  
26 those who may pose a threat to themselves or to others,  
27 because of some mental or emotional disturbance, to seek  
28 professional assistance. The privilege reflects a patient's  
**constitutional right to privacy** and is broadly construed in  
favor of the patient. The psychotherapist-client privilege is  
broader than other privileges. Unlike the physician-patient  
privilege for example, the psychotherapist-patient privilege  
can be invoked in a criminal proceeding."

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"...[there] is no privilege if the patient is in a mental or emotional condition as to be a danger to himself or to the person or property of another and that [such] disclosure of communication is necessary to prevent the threat of danger."

15            Respondent's Kirby or Cahalan (Kirby's Tech)  
never associated any threat of danger in either of their reports  
of Petitioner's behaviour. Respondent Kirby didn't summons any  
Correctional Staff to reprimand Petitioner (as would normally  
have been done if an inmate was "acting-out"), but instead sent  
Petitioner back to yard without doubt of any "danger" of  
Petitioner harming himself or others.

"Even is a threat of violence is communicated to a psychotherapist, a duty to 'warn' arises only, [if] the information communicated to the therapist leads the therapist to believe his or her patient poses a serious risk of, **grave bodily injury to another.**" (emphasis added)

17           Why Respondent did not follow her own procedure  
thus ordering a toxicology of Petitioner through **medical Staff**,

- 16 -

1 thus protecting Petitioner's privilege, but instead, used  
2 **"Deliberate Indifference"** (Defined in Black's Law Dictionary as  
3 "The careful preservation of one's ignorance despite awareness  
4 of circumstances that would put a reasonable person on notice  
5 of a fact essential to a crime.") as cited under Colemen V.  
6 Wilson (1995) 912 F Supp 1282 @ 1316, Respondent Kirby and  
7 Cahalan instead took the haphazard route and requested that  
8 **Custody Staff (not Medical Staff)** secure this test of Petitioner  
9 knowing full well this matter would in fact put the Petitioner  
10 in danger of being disciplined by custody staff.

11 18 Cited under Chance V. Armstrong (1998) 143 F3d  
12 698, "In certain instances, a physician may be deliberately  
13 indifferent if he or she consciously chooses, 'an easier and  
14 less efficacious' treatment plan." (Id. at p. 703-704)  
15 (see also Williams V. Vincent (2nd Cir. 1974) 508 F2d 541, 544;  
16 waldrop V. Evans (11th Cir 1989) 871 F2d 1030, 1035 (reaffirming  
17 the position that "choice of an eaiser but less efficacious  
18 course of treatment can constitute Deliberate Indifference"))

19 19 Respondent had absoutly no authority to disclose  
20 privileged medical information to custody staff under California  
21 Civil Code, Section §56.10, nor was it the intent of the  
22 legislature to warrant such action under the California  
23 Walfare and Institutions Code, Section §5328.

24 20 Petitioner thus requests this Court issue an  
25 Order directing the California Department of Corrections and  
26 Rehabilitation to restore Petitioner's lost, earned good-time  
27 credits, atributable to "tainted Information" given for the  
28 reasoning of said test.

//kastle on habeas corpus//

CONTENTION

2

PETITIONER'S RELYING PSYCHOTHERAPIST FAILED TO SECURE  
 WRITTEN INFORMED CONSENT PRIOR TO CHANGING PETITIONER'S  
 PSYCHOTROPIC MEDICATION AGAINST PETITIONER'S DEMISE  
 THUS VIOLATING CAL W & I CODE §5326 ET SEQ; CAL PENAL  
 CODE §3521; PEOPLE V. DELGADO (1989) 262 CAL RPTR 122;  
CHANCE V. ARMSTRONG (1998) 143 F3D 698;  
 CAL CONST. ART I, §7 AND §29;  
 AS WELL AS UNDER THE UNITED STATES CONSTITUTIONAL  
 8TH AMENDMENT

ARGUMENT

21 During the course of Petitioner's scheduled  
 medication management appointment with Respondent Kirby and  
 Respondent Cahalan, Petitioner declined to give consent to  
 Respondent Kirby so that she might change Petitioner's  
 medication to that of a level Petitioner knew would cause a  
 drastic increase in the degree of his manic, psychotic  
 episodes. (see, Exhibit B, Ex. p 5-6)

22 Holding in the California case of People V.  
Delgado (1989) 262 Cal Rptr 122, gives"

"Informed consent means that the prisoner without duress  
 or coercion, clearly and explicitly manifests consent to  
 the proposed medication to the treating physician in writing.  
 In order to obtain informed consent, the following information  
 shall be given to the prisoner in a clear, and explicit  
 manner" (a) The reason for treatment, that is, the nature of  
 seriousness of the person's illness, disorder or defect. (b)  
 The nature of the procedures to be used in the proposed  
 treatment, including its probable frequency and duration.  
 (c) The probable degree and duration (temporary or permanent)  
 of improvement or remission, expected with or without such  
 treatment. (d)...Incompetent of refusing medication...  
 gravely disabled...danger to others, etc."

23 Petitioner did not become "frantic" during his  
 medication management appointment until after Respondent Kirby

//kastle on habeas corpus//

1 decided to change Petitioner's dosage to a level he knew would  
2 be contrary to his working, current treatment plan.

3           24           The California Penal Code at Section §3521  
4 provides that:

5           "For the purpose of this title, a prisoner shall be deemed to  
6 have given informed consent [only] if each of the following  
7 conditions and satisfied; (a) Consent is given without duress,  
8 coercion, fraud or undue influence (b) The prisoner is  
9 informed in writing of the potential risks or benefits, or  
both of the proposed research (c) The prisoner is informed  
orally and in writing in the language in which the subject  
is fluent..."

10           25           This statute is further defined in California  
11 Welfare and Institutions Code, Section §5326.4 as:

12           "(a)...written informed consent means that a person knowingly  
13 and intelligently, without duress or coercion, clearly and  
14 explicitly manifests consent to the proposed therapy to the  
treating physician and in writing on the standard consent form  
prescribed in section §5326.4 et seq."

15           (see, Exhibit F, Ex. p 11 standard consent form)

16           26           Petitioner has spent several weeks in a manic,  
17 anxious state, failing to eat or sleep because his relying  
18 therapist neglected to properly review Petitioner's psychiatric  
19 file (which was available on Respondent's desk while confronting  
20 Petitioner) prior to their scheduled meeting.

21           27           Citing a popular California case involving the  
22 proper treatment of prisoners with mental disabilities at  
23 Keyhea V. Rushing (1986) 178 Cal App 3d 526 and thus holds:

24           "Both statutory and case-law make it clear, however, that  
25 medication furnished for mentally disabled persons must be  
26 necessary and must be provided in such a way that is least  
restrictive or intrusive of the patient's individual freedom."

#### 27           CONCLUSION

28           28           Petitioner concludes that this argument asks the

///

//kastle on habeas corpus//

1 Court to acknowledge the misuse of Respondent Kirby's position  
 2 with both a doctorate in Psychiatry and Neurology, when she  
 3 is confronted by a prisoner regarding his recommended course of  
 4 treatment, which Respondent obviously took as a challenge of  
 5 her professional position, thus failing to treat Petitioner as  
 6 a mentally disabled person.

7 29 Respondent Kirby along with her Technician  
 8 Respondent Cahalan did indeed use Deliberate Indifference with  
 9 regard to their treatment of Petitioner.

10 30 Petitioner prays that this Court will grant his  
 11 requested relief issuing an order to the CDCR to return his  
 12 forfeited earned good-time credits. As for Respondent,  
 13 perhaps the State will review Respondent Kirby's prior records  
 14 for further acts of misconduct of California mentally ill  
 15 inmates, and stall her less-than-adequate psychiatric  
 16 techniques from harming others at a time the prison system is  
 17 so rotten with medical misconduct.

### 18 CONTENTION

19 3

20  
 21 PRISON ADMINISTRATIVE COORDINATOR FAILED TO PROCESS  
 22 PETITIONER'S EXHAUSTIVE APPEAL THUS DENYING PETITIONER  
 23 DUE PROCESS UNDER THE LAW, THUS VIOLATING THE COURT'S  
 24 ORDER OF, IN RE MUSZALSHI (1975) 51 CAL APP 500;  
PETERSON V. LAMPERT (9TH CIR 2002) 277 F3D 1073;  
 AS WELL AS THE UNITED STATES CONSTITUTIONAL 5TH AND 14TH  
 AMENDMENTS

### 25 ARGUMENT

26 31 An inmate who is planning to file a petition  
 27 for Writ of Habeas Corpus in the State Court against a prison  
 28 employee must first, "exhaust administrative remedies" by using

//kastle on habeas corpus//

1 any available administrative appeal process. [see, In re Strick  
2 (1983) 148 Cal App 3d 906, 911; In re Dexter (1979) 25 Cal 3d  
3 921, 925; In re Muszalski (1975) 52 Cal App 3d 500, 503].

4 32 The doctrine of exhaustion of administrative  
5 remedies has not hardened into inflexible dogma. It contains  
6 its own execeptions.

7 33 In the California case of Ogo Associates V.  
8 City of Torrance (1974) 37 Cal App 3d 830, 834 (for example,  
9 exhaustion is not required in the administrative remedy is  
10 "unavailable" or "inadequate") (see also, White V. California  
11 (1987) 195 Cal App 3d 452, 464; Glendale City Employees  
12 Association, Inc. V. City of Glendale (1975) 15 Cal 3d 328, 342)

13 34 The Ninth Circuit Court of Appeals holds that in  
14 Peterson V. Lampert (9th Cir 2002) 277 F3d 1073, "[a] federal  
15 claim not fairly presented if court must read beyond the petition  
16 or brief to find presence of such a claim". (see also,  
17 Kelly V. Small (9th Cir 2003) 31 F3d 1063; Rhines V. Weber (2005)  
18 125 S Ct 1528; 161 L Ed 2d 440, if petitioner had good cause for  
19 failure to exhaust, his unexhausted claims are potentially  
20 meritorious, and there is no indication that the petitioner  
21 engaged in intentionally dilatory tactics, federal court may  
22 grant a request for stay and abeyance); Olivera V. Giurbino  
23 (9th Cir 2004) 371 F3d 569.

24 35 As shown in the Petitioner's Administrative  
25 Appeal, (Exhibit B et seq.) Petitioner was continuously blocked  
26 by Respondent Eloy Medina, by his use of the CDCR-695, "Inmate/  
27 Parolee Appeals Screening Form", which Petitioner contends  
28 Mr Medina used this form "frivolously", thus denying Petitioner

//kastle on habeas corpus//



1 any right to Due Process afforded by the 8th and 14th  
2 amendments of the United States Constitution.

3 36 Moreover, a prisoner should file an administrative  
4 appeal even when there may be an exception to the exhaustion  
5 requirement. Because the courts generally are reluctant to  
6 invoke an exception to the exhaustion requirement, filing an  
7 appeal will show that an attempt was made to resolve this  
8 matter, administratively.

9  
10 CONCLUSION

11 37 In conclusion, citing Preiser V. Rodriguez (1973)  
12 411 U S 475, "...which held that the sole remedy in Federal  
13 Court for a prisoner seeking restoration of good-time credits,  
14 is thus a Writ of Habeas Corpus."

15 38 It is further quite unlikely that even if  
16 Petitioner had been able to be granted Due Process to exhaust  
17 his administrative appeal, it would not have been granted, the  
18 CDCR has kept reluctant to grant a restoration of forfeited  
19 earned good-time credits. As well any investigation which  
20 might have surfaced actionable evidence, could not exist outside  
21 of some type of "evidenciary hearing".

22 39 Through Court Ordered "Integratories" the Petitioner  
23 can show further evidence that the Respondent acted in an  
24 illegal manner.

25 40 Petitioner prays this Court will grant the sought  
26 relief mentioned in the foregoing petition, and issue a Writ  
27 of Habeas Corpus.

28 ///

//kastle on habeas corpus//



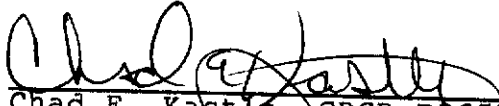
VERIFICATION

41 I, Chad Edward Kastle CDCR P-86598 declare:

I am the Petitioner in the aforementioned matter. I have read the foregoing petition for Writ of Habeas Corpus and Memorandum of Supporting Points and Authorities, and that the facts stated herein are true of my own knowledge, except as to matter that are therein stated on my own information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury of law under the State of California that the foregoing is true and correct, and that this verification was executed at Soledad California, on the 12<sup>th</sup> day of December 2007.

Respectfully Submitted,

  
Chad E. Kastle, CDCR P86598  
Petitioner, In Pro se.

//kastle on habeas corpus//

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

(C.C.P. SEC.466 & 2015.5; 28 U.S.C.SEC.1746)

I, Chad E. Kastle declare under penalty of perjury that: I am the Petitioner in the above entitled action; I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon information, and belief, and as to those matters, I believe they are true.

Executed this 15<sup>TH</sup> day of April, 2008, at Salinas Valley State Prison, 31625 HWY 101, P.O.Box 1050, Soledad, California 93960-1050.

(Signature)

Chad E. Kastle  
DECLARANT/PRISONER

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013(a) & 2015.5; 28 U.S.C. SEC.1746)

I, Chad E. Kastle, am a resident of a California State Prison, in the County of Monterey, State of California; I am over the age of eighteen (18) years and AM ~~AM NOT~~ a party of the above entitled action. My State Prison address is: P.O.Box 1050, Soledad, Calif. 93960-1050.

On this 15<sup>TH</sup> day of April, 2008, I served the foregoing:

Petition for Writ of Habeas Corpus, (530)

(Set forth exact title of document(s) served)

On the pary(s) herein by placing a true copy(s) thereof, enclosed in a sealed envelope(s), with postage thereof fully paid, in the United States Mail, in a deposit box so provided at Salinas Valley State Prison, Soledad, California 93960-1050.

CA Attorney General  
280 S. First Street  
San Jose, CA 95113

(List parties served)

There is delivery service by the United States Mail at the place so addressed, and/or regular communication by mail between the place of mailing and the place so addressed.

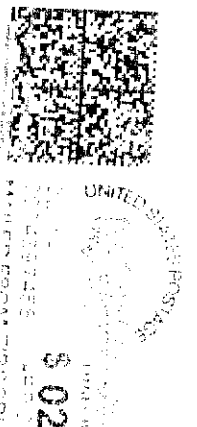
I declare under penalty of perjury that the foregoing is true and correct.

Dated: 4-15, 2008.

(Signature)

Chad E. Kastle  
DECLARANT/PRISONER

Salinas Valley State Prison  
Chad Hostle P86598  
PO Box 1050 (B5-102)  
Seledad, CA  
93960-1050



United States District Court  
Northern District of California  
ATTN: office of the clerk.

280 S. First St, Ste #2112  
San Jose, CA 95113-3008

NOTARY PUBLIC